

## Association of Business Recovery Professionals

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Your reference - CP23/5  
Email only - [cp23-5@fca.org.uk](mailto:cp23-5@fca.org.uk)

28 February 2023

Dear Ms. Kocovska

### **FINANCIAL CONDUCT AUTHORITY ('FCA') – DEBT PACKAGERS: PROPOSALS FOR NEW RULES CP23/5: Debt packagers: feedback on CP21/30 and further consultation on new rules and perimeter guidance Consultation response from insolvency and restructuring trade body R3.**

#### **1. INTRODUCTION**

- 1.1. R3 is the trade association for the UK's insolvency, restructuring, advisory, and turnaround professionals. We represent licensed insolvency practitioners, lawyers, turnaround and restructuring experts, students, and others in the profession. Our members work across the spectrum of the profession, from global legal and accountancy firms through to smaller, local practices.
- 1.2. The insolvency, restructuring and turnaround profession is a vital part of the UK economy. The profession rescues businesses and jobs, creates the confidence to trade and lend by returning money fairly to creditors after insolvencies, investigates and disrupts fraud, and helps indebted individuals get back on their feet. Our members have direct experience of insolvencies and their impact on the UK economy and insolvent companies' stakeholders.
- 1.3. This response is based on the expertise of our Personal Insolvency Committee members, who are experienced in dealing with individuals in significant financial distress. The Committee is multi-disciplinary and is made up of representatives from across the insolvency and restructuring profession, including practicing insolvency practitioners, solicitors, and others.

#### **2. CONSULTATION RESPONSE**

##### **Q1: Do you have any comments on our consolidated evidence base (including as it is detailed in the CBA)?**

- 2.1. No comments.

##### **Q2: Do you think there have been any developments (since 2020, and since our consultation in 2021) which have materially changed the management of the conflict of interest? If so, can you provide evidence of these developments?**

- 2.2. We are not aware of any developments from 2020 that would materially change the managed of conflict of interest.

**Q3: Do you think there are any developments in the market which have changed the factors informing our decision as to the right intervention to tackle the harm or risk of harm we have seen? If so, can you provide evidence of these developments?**

- 2.3. R3 continues to welcome the intention behind the FCA's proposal of new rules to ban debt packagers from receiving remuneration from debt solution providers, and its aim of reducing the risk that consumers receive non-compliant debt advice that is biased towards debt solutions which generate referral fees for the debt advice firm, but which may not best suit the indebted individuals' needs .
- 2.4. The proposed new rules will help to better uphold integrity and independence when debt advice is provided to individuals, and to avoid manipulation of an individual's circumstances to suit the 'debt packager' – rather than the individual themselves.

**Q4: Do you have any further comments on our amended proposals and the draft Handbook text in Appendix 1 including the new PERG guidance?**

- 2.5. No comments.

**Q5: Do you agree with the proposed implementation period of 2 months?**

- 2.6. We would encourage the new rules taking effect as quickly as possible with a 1 month period for implementation, given the uncertain times and vulnerable circumstances indebted individuals are likely to be facing as a consequence of the cost of living crisis. Two month period for implementation should be the maximum.

**Q6: If you do not agree with the proposed implementation period, what alternative implementation period would you recommend? Please provide evidence for the length of implementation period you believe is required.**

- 2.7. N/A

### **3. FINAL COMMENTS**

- 3.1. We welcome the proposed guidance on the term 'insignificant amount' contained in section '8.3 Pre contract information and advice requirements'.
- 3.2. With regard to the FCA's response to widening the insolvency practitioner exclusion (paragraph 2.62), R3's Personal Insolvency Committee would welcome a virtual or physical meeting with members of the FCA to discuss this view and to promote the benefits of removing or amending the exclusion whilst also illustrating how well regulated the insolvency profession is.
- 3.3. If you would like to meet or if you have any other queries, please contact R3's Head of Technical, Ben Luxford, at [ben.luxford@r3.org.uk](mailto:ben.luxford@r3.org.uk) or on 020 7566 4218.

Yours sincerely



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